

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GERALD RIVIELLO, JR., and  
DONALD LOUIS MARVIN,

Plaintiffs,

vs.

FNB BANK, N.A., FULTON BANK, and  
FULTON FINANCIAL CORPORATION,

Defendants.

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CASE NO.

***NOTICE OF REMOVAL OF CIVIL ACTION***

Pursuant to 28 U.S.C. § 1441, defendants, FNB Bank, N.A., Fulton Bank, National Association (incorrectly named as “Fulton Bank”), and Fulton Financial Corporation, by and through their undersigned counsel, hereby remove the above-titled civil action to this Court pursuant to the Court’s original jurisdiction as provided by 28 U.S.C. § 1331. In compliance with 28 U.S.C. § 1446(a), the defendants assert the following grounds for removal:

1. By their Complaint dated October 3, 2011, plaintiffs brought the above-referenced action against the defendants in Magisterial District Court Number 26-2-01, Columbia County, Pennsylvania, where it was assigned Case No. CV-0000351-2011 (the “State Court Action”).

2. A true and correct copy of plaintiffs’ Complaint is attached hereto as Exhibit A<sup>1</sup>.

3. Defendants FNB Bank, N.A. and Fulton Financial Corporation were served with the complaint on October 6, 2011; defendant Fulton Bank, National Association was served on October 7, 2011.

4. This Notice of Removal is timely because it has been filed within 30 days after service of the Complaint, which was the original pleading setting forth the basis for the Court’s federal question jurisdiction. *See* 28 U.S.C. § 1446(b).

5. In their complaint, plaintiffs allege violations of the federal Electronic Fund Transfer Act (“EFTA”), 15 U.S.C. 1693 *et seq.*, and the implementing regulations thereunder.

6. Plaintiffs’ prayer for relief is for statutory damages, actual damages, and attorney fees under the federal EFTA.

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<sup>1</sup> In the first paragraph of their Complaint, plaintiffs aver that they attached exhibit(s) evidencing the electronic transactions at issue; however, the Complaint served upon defendants contained no exhibits.

7. Statutory damages under the EFTA are not less than \$100.00 nor greater than \$1,000.00, plus the costs of the action. See 15 U.S.C. § 1693m.

8. Federal question jurisdiction under 28 USCS § 1331 is established as all claims averred by plaintiffs arise under the laws of the United States.

9. Venue is proper in the United States District Court for the Middle District of Pennsylvania because it is the district court for the district and division within which the State Court Action is pending (Magisterial District Court of Columbia County, Pennsylvania), in accordance with 28 U.S.C. §§ 118(b) and 1446(b).

10. Written notice of the filing of this Notice of Removal has been served on plaintiffs, through their counsel, and a true and correct copy of this Notice of Removal will be filed with the Magisterial District Court, Columbia County, Pennsylvania.

11. For all the foregoing reasons, the defendants submit that the State Court Action is removable to this Court under 28 U.S.C. §§ 1331 and 1441(b).

WHEREFORE, defendants FNB Bank, N.A., Fulton Bank, National Association and Fulton Financial Corporation, pray that this action stand and remain removed from the Magisterial District Court, Columbia County, Pennsylvania, to this Court.

Respectfully submitted,

McCORMICK LAW FIRM

By: /s/ J. David Smith

J. David Smith

PA 27813

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CERIFICATE OF SERVICE

The undersigned certifies that a true and accurate copy of the foregoing was served by United States first class mail, postage prepaid, this 7th day of November, 2011, to the following:

Vicki Piontek, Esquire  
Piontek Law Office.  
951 Allentown Road  
Lansdale, PA 19446

McCORMICK LAW FIRM

By: /s/ J. David Smith